

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 4, 2002

Agenda ID #1492

TO: PARTIES OF RECORD IN APPLICATION 92-09-054 AND CASE 93-03-071

This is the draft decision of Administrative Law Judge (ALJ) Weismehl. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ CAROL BROWN

Carol Brown, Interim Chief
Administrative Law Judge

CAB:sid

Attachment

Decision **DRAFT DECISION OF ALJ WEISMEHL** (Mailed 12/4/2002)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of J. C.
Bangerter & Sons, Inc., for a Certificate of Public
Convenience and Necessity to operate as a
highway common carrier under Public Utilities
Code Section 1063.

Application 92-09-054
(Filed September 1, 1992)

Dick Simon Trucking, Inc.,

Complainant,

vs.

J. C. Bangerter & Sons, Inc.,

Defendant.

Case 93-03-071
(Filed March 26, 1993)

ORDER CLOSING DOCKETS

This order dismisses two proceedings for staleness and lack of jurisdiction.

These two matters have been pending without activity for many years. The application is a request for a certificate of public convenience and necessity as a highway common carrier pursuant to former Public Utilities Code Section 1063. The complaint is by another carrier who not only challenged the application, but also sought revocation of certain existing authority of the applicant, specifically revocation of highway contract carrier and agricultural carrier permits.

Since the filing of these matters, the Legislature enacted AB 1683 (Stats. 1996, ch. 1042). AB 1683 repealed the Highway Carriers' Act (Pub. Util. Code § 3501 et seq.), thereby removing the statutory jurisdiction of this Commission over the transportation of property over the public highways in California, with the exception of household goods movers.

Jurisdiction over motor carriers of property, other than household goods movers, now rests with the California Department of Motor Vehicles and the California Highway Patrol. (See Motor Carriers of Property Permit Act, Vehicle Code Section 34600 et seq.)

In light of the fact that this Commission lacks jurisdiction over motor carriers of property, these matters should be dismissed for lack of jurisdiction.

Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

Assignment of Proceeding

Geoffrey Brown is the Assigned Commissioner and Philip Weismehl is the assigned Administrative Law Judge in these proceedings.

Findings of Fact

1. This Commission regulated motor carriers of property until the passage of AB 1683, which became effective September 29, 1996.
2. AB 1683 revoked this Commission's jurisdiction over highway motor carriers of property, other than household goods movers.

Conclusions of Law

1. The Commission lacks jurisdiction over the subject matter of both the application and the complaint.
2. This order should be made effective immediately to expeditiously remove stale proceedings from the Commission's dockets of active matters.

IT IS ORDERED that Application 92-09-054 and Case 93-03-071 are dismissed and the dockets are closed.

This order is effective today.

Dated _____, at San Francisco, California.